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STATE DOCUMENTS

Palmetto AVIATION

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FAA cites Orangeburg

The city of Orangeburg was cited by the FAA recently for its cooperation in securing a new terminal VOR facility at the airport. FAA Southern Region Director Jonathan E. Howe (right) presented a certificate to Mayor E. O. Pendarvis commending the city for "exemplary service to the public through their construction of a building for an air navigation aid resulting in improved service to the aviation community at significant cost savings to taxpayers." (S.C. Aeronautics Commission photo).

ATC not responsible for death, court rules

by HENRY M. BURWELL, Esq.

On February 17, 1978, a pilot and his wife died in a small airplane crash outside of the Grand Strand Airport at Myrtle Beach, S.C. A suit was brought by their children against the United States government on the grounds that the court decided that the FAA and the USAF air traffic controllers were negligent. The federal district court decided that the government had been negligent and that their negligence had been the cause of the death of the pilot and his wife. The court also determined that the pilot had been negligent but that the government's negligence was the intervening and superseding occurrence which made the government ultimately responsible. *Rawl v. U.S.A.*, 19 Avi 18,004 (Dec. 4, 1985, USCA 4).

The government appealed the adverse decision on the grounds that the negligence of the pilot was concurrent with that of the government therefore barring any claims of the estate under South Carolina negligence law. The appeals court agreed with the government position. It reversed the lower court because it determined both the government and the pilot's negligence concurred to cause the crash.

The facts show that the pilot flew from Myrtle Beach to Greenville at 5:45 p.m. to pick up his wife and return to Myrtle Beach for an 8:00 p.m. dinner party. He had 2,500 hours flight time but was not IFR qualified. At 7:19 p.m. he made contact with RAPCON in weather with a 400' ceiling and 2 mile visibility in fog and haze. He was given Special VFR

clearance but was delayed while another aircraft made several passes trying to land.

The pilot had 4 hours of fuel but was not diverted like another aircraft which was vectoring in to land behind the fated aircraft. In making the final approach, a miscommunication occurred between the pilot and RAPCON. As a result, the pilot turned to the wrong heading, became spatially disoriented, and crashed.

The lower court decided RAPCON violated its duty of care to the pilot in causing the disorientation by issuing vector changes without heading confirmations from the pilot. This improper procedure resulted in a series of abrupt maneuvers, spatial disorientation, a power dive and crash. As a conse-

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PALMETTO AVIATION is an official publication of the South Carolina Aeronautics Commission. It is designed to inform members of the aviation community, and others interested in aviation, of local developments in aviation and aviation facilities and to keep readers abreast of national and international trends in aviation.

The Aeronautics Commission is a state agency created in 1935 by the S.C. General Assembly to foster and promote air commerce within the state.

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Aircraft thefts decline but burglaries plague industry

General aviation aircraft thefts decreased in 1985 in both the number of reported incidents and dollar value. This is the sixth straight year that aircraft thefts have declined. However, aircraft burglaries, which include the theft of avionics and related equipment, increased slightly over 1984.

This data is contained in the year-end report of the International Aviation Theft Bureau, a joint activity of the AOPA Air Safety Foundation and major aviation insurance companies.

1985 produced reports of 101 stolen aircraft representing \$8 million in losses to aviation insurance companies. This was 11 fewer thefts than occurred in 1984. Of the 101 aircraft stolen in 1985, 61 were recovered. This represents 60 percent of the total and the highest recovery rate recorded. According to Robert J. Collins, the Bureau's Executive Director, "We are constantly increasing our distribution of theft information to airports, FBOs, pilots and police officers. In

many cases, stolen aircraft are being recovered before they can be put to illegal use by the thieves. I expect to record fewer thefts and more recoveries in 1986."

Aircraft burglaries continue to plague the aviation industry at a record pace. There were 270 break-ins in 1985 compared to 267 the previous year. Said Collins, "Our intelligence indicates most of the burglaries are committed by well organized rings. Counterfeit serial number plates are being used by the thieves to 'wash' much of the equipment. Even though we're recovering more equipment than before, more must be done, especially by avionics repair shops and sales outlets. I encourage anyone who is being offered used equipment to contact the Bureau to check the serial numbers. Call me at 301-695-2022. It's up to industry to reduce these thefts because we all have a vested interest in the problem. In the end, everyone pays in the form of high insurance rates."

Air taxi operators asked for enplanement data

The FAA would like all licensed Part 135 Commercial air taxi operators to report the number of enplaned passengers and pounds of cargo loaded at departure airports during calendar year 1985.

Forms have been mailed to all operators who are registered with the agency. If you did not get a form, however, they are available at the

S.C. Aeronautics Commission.

It is important that operators accurately report enplaned passenger data since it will be used to allocate federal Airport Improvement Funds to the airports served.

If you need a form, call Bill Goodwin at 758-7704 between 8:30 a.m. and 5 p.m.

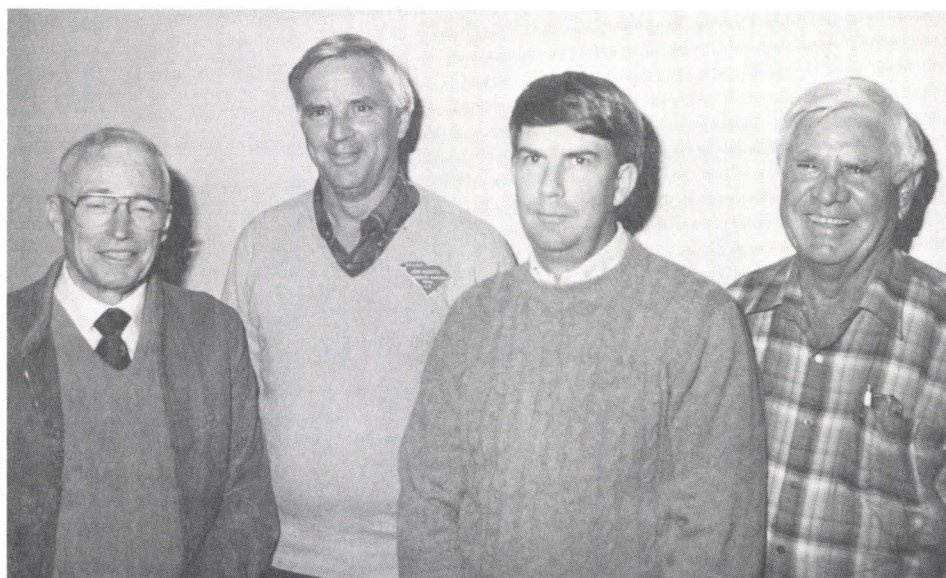
Photo history to be ready in April

The publication date of a picture history of the early days of aviation in North and South Carolina and Virginia has been delayed somewhat but is now expected to be available sometime in April.

The book--the work of Joseph W. Swearingen and Wilson L. Mills of Camden--contains more than 270

photographs depicting aviation personalities, events and items from 1903 through 1985 in the three-state region.

Copies of the book may be ordered directly from Edwards Vaughn Publishers, P.O. Box 2015, Camden, SC 29020. The price is \$19.95 plus \$1.00 SC tax and \$2.95 for shipping and handling.



1986 SCAAA Officers

The South Carolina Aerial Applicators Association elected officers for the coming year at its annual convention held last month in Myrtle Beach. Shown, from left, are Roland Richardson, President, Sumter; John Roberts, Second Vice President, Clover; Jack Woodward, First Vice President, Barnwell; and Jack Phillips, Secretary-Treasurer, Fairfax; (S.C. Aeronautics Commission Photo).

Profile of pilot involved in fatal weather accident

The weather-involvement, fatal accident pilot is a VFR type, between the age of 30 and 50, affluent enough to own or rent a reasonably late model aircraft and has between 50 and 1000 flying hours.

His accident will occur during a business or personal pleasure flight; he will be one of the 68% in his group who fails to take the time to receive any sort of weather briefing. Only 16% of his group actually go to the Flight Service Station or Weather Bureau for a thorough briefing. Only 40% of his group will bother to file a flight plan. It will be his *FIRST* accident - and it will most likely happen on his *trip home*, on a Friday, Saturday, or Sunday, during daylight

hours in August, November, December, or January in a single engine aircraft. Some form of precipitation will be occurring with low ceilings - low visibility.

It will be his *LAST* accident!

The only thing he may take consolation in is that there is a 99% possibility he and the innocent passengers he takes with him will be buried on a clear day, in gorgeous VFR weather conditions, by a level-headed, clear thinking minister, and he will be mourned by his family and friends who believed the accident was caused by the horrible element "*WEATHER*" -- or that *flying machine* -- not "Old Joe" -- he was an excellent pilot!!

CLIO Fly-in set April 5-6

Clio Crop Care Airport will hold its annual Spring Fly-in April 5 and 6, the first weekend after Easter.

Airport owner Sherman Hanke said the fly-in began as a Stearman event but eventually broadened to include homebuilts and ultralights and now the new A.R.U.s.

"Factory built aircraft are also welcome," Hanke said. "We expect several Pitts, Q2s, Citabrias, AT-6s and many other homebuilts. Come and enjoy!"

The private airport is located just south of the town of Clio.

Breakfast Club



The April 6 meeting of the Breakfast Club will be held at the FMC Corporation in Aiken and pilots will be transported from the Aiken Municipal Airport to the FMC facility. The Aiken plant of the FMC Corporation manufactures components for the Bradley Fighting Machine, and the flexible manufacturing system at FMC presents an innovative approach to this manufacturing concept. FMC will be available following the Breakfast Club meeting for tours and presentations on the manufacturing system and the Bradley Vehicle.

- March 9** Owens Airport, Columbia
- March 23** Dillon County Airport, Dillon
- April 6** Aiken Municipal Airport, Aiken
- April 20** Bryant Field, Rock Hill
- May 4** Berkeley County Airport, Moncks Corner
- May 18** Laurens County Airport, Laurens
- June 1** Eastwinds Airport, (across from McEntire ANG base)
- June 15** Twin Lakes Airport, North Augusta (Father's Day)
- June 29** Corporate Airport, Pelion
- July 13** Fairfield County, Winnsboro
- July 27** Lugoff (Eight NM SE Woodward Field)
- August 10** Daniel Field, Augusta, GA



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Aviation calendar

March 20--Annual Carolina Flight Standards District Office (FSDO) pilot examiners meeting. 10 a.m. to 3 p.m. at the Charlotte N.C. Air National Guard Armory. It is mandatory that pilot examiners attend this meeting for continued uninterrupted certification.

March 29--Greenville Country 200th Anniversary celebration at Greenville Downtown Airport featuring static displays, fly-bys and ballon ascension. 10 a.m. to 5 p.m.

April 5-6--Spring fly-in at Clio Crop Care Airport. Stearmans, homebuilts and ultralights welcome. Contact S.W. Hanke, 586-9225.

May 2-4--Palmetto Balloon Classic at Historic Camden. Balloon ascensions and competition plus live entertainment.

May 2-4--Florence "May-Fly" at Florence Airport, featuring static displays, fly-bys and airshow by Skyhawks Precision Aerobatic team. Contact airport commission office, 669-5001.

May 2-4--EAA Chapter 3 Spring Fly-in, Burlington Airport near Burlington, NC.

May 24-27--Angel Derby air race from Columbus, OH to Nassau in the Bahamas. Open to men this year for the first time. Contact Peggy Sanders, (305) 771-6827.

June 7-8--U.S. Navy Blue Angels Precision Flight Demonstration Team at Cherry Point Marine Corps Air Station, NC.

July 3-8--Freedom Weekend Aloft, Greenville.

July 26-27--Skyhawks Aerobatic team featured at Beaufort Water Festival, Beaufort, SC.

October 6-9--Annual Conference of the Southeastern Airport Managers Association (SAMA). Pinehurst Hotel and Country Club, Pinehurst, NC.

ATC not liable

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quence, the court found the government should be held at fault.

The appeals court decided the pilot's negligence was equally important with that of RAPCON. Specifically, the pilot violated his duty of care by flying in weather conditions barring a VFR landing, accepting a Special VFR clearance which he was not licensed to accept and ignoring the warning signs shown by the landing difficulty of the aircraft preceding him. Therefore, the government's negligence concurred with the pilot's negligence. The court stated that the government's negligence did not intervene or supersede over the pilot's conduct because he could have forseen spatial disorientation resulting from these weather conditions without negligence from ATC.

As a result, under the doctrine of contributory negligence, the claim of the estate against the government was barred.

**Mr. Burwell is an attorney in the Greenville office of the Barringer, Allen, Pinix & Burwell law firm.*